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Before the
Federal Communications Commission
Washington, D.C. 20554

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AUG 30 1994

In the Matter of)
)
Amendment of the Commission's) GEN Docket No. 90-314
Rules to Establish New Personal)
Communications Services) RM-7140, RM-7175, RM-7618

To: The Commission

**OPPOSITION TO JOINT REQUEST FOR CLARIFICATION AND
TO PETITION FOR PARTIAL RECONSIDERATION**

COMSAT Corporation ("COMSAT"), through its COMSAT Mobile Communications division, hereby opposes the Joint Request for Clarification of Maximum Service Television, Inc. ("MSTV") et al, filed July 25, 1994, and the Petition for Partial Reconsideration of Celsat, Inc. ("Celsat") filed June 29, 1994, in the above-captioned proceeding. MSTV and Celsat seek further modifications to the Memorandum Opinion and Order (the "PCS Order") released on June 13, 1994,¹ in which the Commission modified its spectrum allocation plan for new Personal Communications Services ("PCS").

The revised PCS band plan provides that broadband terrestrial PCS will be deployed entirely within the 1850-1990 MHz frequency band and that the 2180-2200 MHz band, previously allocated to PCS, will be returned to reserve status for potential future allocation to Mobile Satellite Services ("MSS"). The decision also indicates the Commission's intent to initiate a new proceeding to adopt allocations for MSS and to pursue additional international MSS allocations.

¹Memorandum Opinion and Order, Gen. Docket No. 90-314, FCC 94-144, released June 13, 1994 ("PCS Order").

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COMSAT supports the Commission's actions in the June 1994 PCS Order. The decision recognizes the potential value of MSS and reflects the Commission's intent to preserve, as much as possible, the international MSS allocations made at the 1992 World Administrative Radio Conference ("WARC-92"). As such, we believe that the new PCS band plan balances the concerns of both the PCS and MSS industries more fairly than the initial PCS band proposal made by the Commission and provides increased benefits for U.S. consumers.

We oppose MSTV's and Celsat's pleadings because the issues raised by both parties are outside the scope of this proceeding. The PCS Order and the record in this proceeding reflect that the Commission is fully prepared to address the broadcast auxiliary issues raised by MSTV and the MSS allocation issues of concern to Celsat, and others in the MSS community, in a new MSS allocation proceeding to be implemented by the Commission in the near future. Accordingly, COMSAT urges the Commission to deny the MSTV and Celsat pleadings and to initiate a new proceeding to allocate the remaining WARC-92 2 GHz spectrum to MSS.

I. Spectrum Sharing Issues Concerning MSS and Broadcast Auxiliary Services Do Not Merit Further Clarification By the Commission in This Proceeding

MSTV seeks clarification of the PCS Order to protect the integrity of broadcast auxiliary operations located in the 1990-2110 MHz frequency band. COMSAT understands the concerns expressed by MSTV for continued unimpaired broadcast auxiliary operations which support electronic news gathering ("ENG")

activities and other remote broadcast station operations. We do not question MSTV's interest in protecting these operations. We disagree, however, with MSTV's attempt to interject these issues into the instant proceeding.

According to MSTV, the Commission's actions to relocate the broadband PCS allocation to a contiguous frequency band at 1850-1990 MHz and to return the 2180-2200 MHz band, which was allocated previously to PCS, to reserve status for future allocation, may adversely impact "the daily operations of virtually every broadcast television station in the country." MSTV Request at 2. COMSAT fails to see how this could be the case, since the PCS Order does not directly impact the existing broadcast auxiliary allocation.² Any action which might implicate the broadcast auxiliary band at 1990-2110 MHz, or some smaller portion of the band, has yet to be undertaken. Consequently, there is no merit to MSTV's claim that without clarification of the PCS Order certain aspects of this Order could have an immediate adverse impact on present broadcast auxiliary operations.

²While it is true that the Commission decided to increase the maximum permissible power of PCS base stations from 100 watts E.I.R.P. to 1640 watts E.I.R.P., the potential for interference to broadcast auxiliary operations is negligible due to the strict limits on out-of-band PCS emissions above 1990 MHz adopted by the Commission in Section 24.238 of the Rules. See PCS Order, Appendix A at 22. Indeed, by way of contrast, there is a much greater chance for potential interference to MSS uplink receivers from ENG broadcast auxiliary carriers operating co-channel in the 1990-2010 MHz band. For this reason, COMSAT believes it is appropriate to proceed with a separate proceeding to fully examine spectrum sharing issues within the context of the WARC-92 2 GHz allocations to MSS.

What is apparent from the PCS Order is that the Commission intends to initiate a separate proceeding in the near future to consider potential MSS allocations in frequency bands paired, in part, with a small portion of the broadcast auxiliary band. The Commission notes that the 20 MHz of broadcast auxiliary spectrum at 1990-2010 MHz, which is allocated under international agreements as an Earth-to-Space MSS band and paired with the 2180-2200 MHz Space-to-Earth MSS band, "could potentially be reallocated for MSS use on a shared basis, if feasible, or exclusively, if suitable replacement spectrum could be found for broadcast auxiliary service." PCS Order at para. 97. Accordingly, the Commission states that it plans to undertake a proceeding to investigate these allocation possibilities with the goal of finding spectrum to accommodate MSS "while maintaining sufficient spectrum for broadcast auxiliary use". Id.

Given the Commission's stated intention to undertake a separate proceeding to consider MSS spectrum allocation issues and related issues of broadcast auxiliary spectrum sharing and possible relocation, MSTV will have ample opportunity to present its arguments in the future. Thus, there is no need to "clarify" issues involving broadcast auxiliary operations in the PCS docket.

Indeed, if the Commission were to adopt any of MSTV's requested clarifications in the context of the PCS Order, it would effectively limit full consideration of the MSS 2 GHz allocation issues before a docket to investigate these issues has

even been opened. In particular, we note that MSTV asks the Commission to "place a high priority" on finding alternative spectrum for MSS that does not involve relocation of broadcast auxiliary services. MSTV Request at 5. Such action, in combination with the Commission's revised PCS band plan, would nullify some five years of work by the Commission and other U.S. Government agencies, the U.S. MSS industry and the majority of the 182 member countries of the International Telecommunications Union ("ITU"), to identify and ratify suitable new spectrum for global MSS.

As the Commission is aware, the effort to allocate global spectrum to MSS began in 1989, with the initiation of a proceeding at the Commission to prepare for WARC-92. Based upon a full record demonstrating immediate and future needs for MSS, the United States took the lead at WARC-92 and, after lengthy negotiation on alternative band pairs in the 2 GHz band, was successful in negotiating new allocations for global MSS in the 1800-2010/2170-2200 MHz bands. The need for global MSS allocations was reaffirmed at the recent 1993 World Radio Conference ("WRC-93"), in which the conferees agreed to consider moving up the worldwide implementation date for these bands at the 1995 Conference, and encouraged Administrations to cooperate immediately in coordination consultations for the use of these bands by MSS.

If the Commission were to abandon the remaining portions of the WARC-92 2 GHz global MSS bands, the world would be forced to

begin new negotiations within the ITU framework to find suitable spectrum for global MSS. Essentially, the entire allocation process would have to be reconsidered at the next conference in 1995, or, given the relatively short lead time, possibly not until 1997. This would be too late to incorporate new bands into the planned future satellite systems such as Inmarsat-P.

As the record in this and other proceedings indicate, considerable time has elapsed since the United States first elected to pursue allocations for global MSS systems at 2 GHz. Accordingly, COMSAT urges the Commission to deny MSTV's Request and to proceed with its intention, stated in the PCS Order, to initiate a proceeding to consider global MSS allocations in the 2 GHz band.

**II. Domestic and International MSS Allocation Issues
Involving the WARC-92 2 GHz Bands May Be Resolved in
the Forthcoming MSS Rule Making**

Celsat's Petition for Reconsideration seeks to have the Commission reconsider the PCS Order so as to set aside spectrum on a secondary basis for domestic MSS. Celsat's concern stems, in part, from the Commission's action to allocate the 10 MHz of ITU Region II MSS spectrum at 1970-1980 MHz to terrestrial PCS. In particular, Celsat requests that the Commission adopt a secondary allocation for domestic MSS in the 1970-1990 MHz band. Celsat Petition at 4-6. While we agree with Celsat that the Commission may not have fully considered the utility of overlaying a secondary MSS allocation in frequencies below 1990

MHz, we oppose Celsat's attempt to introduce this issue in the instant proceeding.

As discussed above, COMSAT believes that the Commission is firmly committed to establishing a new allocation proceeding to accommodate MSS operations. While Celsat acknowledges this point, it is fearful that the new MSS proceeding may allocate spectrum "only for international purposes," and, thus, requests further action in the PCS docket to accommodate domestic MSS operations. Id. at 3. In reviewing the PCS Order, we can find no support for Celsat's interpretation of the Commission's actions.

By shifting the frequency band plan for terrestrial PCS, the Commission has made it clear that it wishes to preserve its flexibility to implement the "international MSS allocations" at 2 GHz made at WARC-92. PCS Order at para 94. The use of the word "international" in this phrase, and throughout the discussion of MSS issues in the PCS Order, does not appear to refer to the geographic limits of MSS operations, but to the international nature of the ITU allocation process which has designated spectrum for use globally -- both in the United States and around the world -- by MSS. Accordingly, contrary to Celsat's claims, the Commission has not excluded domestic MSS allocations from consideration in the forthcoming MSS proceeding, it has affirmed its intent to make this allocation possible.

Should the Commission decide to address the substance of Celsat's Petition, COMSAT believes that any secondary assignment

in the 1970-1990 MHz band must necessarily reflect the MSS frequency allocations adopted at WARC-92. Thus, a secondary MSS allocation in the U.S. Table of Frequency Allocations should be consistent with MSS operations in Region II at 1970-1980 MHz and global MSS operations in the remaining band at 1980-1990 MHz. We strongly urge the Commission to delay consideration of such a secondary MSS allocation, however, until it initiates a new proceeding in the near future to adopt primary allocations for MSS in the 2 GHz band so that the issues concerning MSS use of this spectrum can be addressed in an orderly and comprehensive manner.

Conclusion

For the reasons stated above, COMSAT requests that the Commission deny MSTV's Request for Clarification and Celsat's Petition for Reconsideration and promptly initiate the WARC-92 MSS allocation proceeding.

Respectfully Submitted,

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August 30, 1994

CERTIFICATE OF SERVICE

I, Pamela L. Sonnevile, hereby certify that the foregoing "Opposition to Joint Request for Clarification and to Petition for Partial Reconsideration" was served by first-class mail, postage prepaid, this 30th day of August, 1994, on the following persons:

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